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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial report of States Parties due in 1993

Addendum

SLOVENIA

[29 May 1995]

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Introduction

1. Pursuant to paragraph 1, article 44 of the Convention on the Rights of the Child, to which the Republic of Slovenia is a successor (the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia, published in the Official Gazette of the Republic of Slovenia No. 1/91-I; the Act on notification of succession to United Nations conventions and conventions adopted by the International Atomic Energy Agency, published in the Official Gazette of the Republic of Slovenia No. 35/92), the Republic of Slovenia, as a member of the United Nations and of the Convention on the Rights of the Child, hereby presents its initial report on measures adopted to implement the Convention on the Rights of the Child, and on the results achieved in the implementation of this Convention.

2. The present report was prepared by the Ministry of Labour, Family and Social Affairs, with the contributions of responsible ministries and government offices and the brochure "Children's rights in Slovenia - Legal aspects".

3. This report has been drawn up in accordance with the guidelines on the form and contents of the initial report, as adopted by the United Nations Commission on the Rights of the Child. Thus, articles are grouped under the following eight themes: definition of a child, general principles, civil rights and freedoms, family environment and alternative care, basic health and welfare, education, leisure and cultural activities, special protection measures, children in conflict with the law, recovery and reintegration and children in minorities.

I. GENERAL IMPLEMENTATION MEASURES

4. Efforts by individuals and non-governmental organizations to promote among the general public and in competent government bodies knowledge of the importance of the rights of the chi[illegible] became particularly pronounced in the Republic of Slovenia at the end of 1988. The endeavours to promote the rights of the child were present among non-governmental organizations, such as the Association of Friends of Youth of the Republic of Slovenia (Commission on the Rights of Children), the United Nations Association of the Republic of Slovenia and the Slovenian Committee for UNICEF, the Parliamentarian Council on the Protection of Human Rights and the Ministry of Labour, Family and Social Affairs. The United Nations Association of the Republic of Slovenia and the Association of Friends of Youth of the Republic of Slovenia provided the translation into Slovenian of the Convention on the Rights of the Child, the United Nations Association of Slovenia provided the translation of the Declaration on the Rights of the Child, and the Association of Friends of Youth of Slovenia and the Slovenian Committee for UNICEF organized several round tables on children's rights in various areas, highlighting violations of these rights.

5. The Ministry of Labour, Family and Social Affairs, in association with UNICEF, translated and promoted UNICEF'S booklet "Children first", containing the Convention on the Rights of the Child and the World Declaration on the Survival, Protection and Development of Children.

6. In November 1993 the Ministry of the Interior issued a booklet informing children, parents and others about violations of the rights of children guaranteed under the Convention on the Rights of the Child, and organized round tables on these problems, at which it distributed the booklet to the general public.

7. In 1991 the Criminology Institute of Ljubljana issued and publicly promoted a brochure "Children's rights in Slovenia - Legal aspects". The brochure was published on the initiative and with the financial support of the Ministry of Labour, Family and Social Affairs. It deals with general issues and international aspects of the rights of the child, the protection of those rights in the domestic legal system and measures for the harmonization of the country's legislation and policy with the provisions of the Convention.

8. The report on measures adopted to implement the Convention on the Rights of the Child will be published, and public discussions on the subject will be organized.

9. The Prime Minister of the Republic of Slovenia signed in 1994 the Declaration on the Survival, Protection and Development of Children on the basis of which the Ministry of Labour, Family and Social Affairs in cooperation with competent ministries will in 1995 prepare a Plan of Activities or, more precisely, the National Programme.

II. DEFINITION OF THE CHILD

10. The 1991 Constitution of the Republic of Slovenia (adopted on 23 December 1991) contains a separate chapter on human rights and basic freedoms (arts. 14-65), within which the rights of the child are also defined. Article 14 lays down that equal human rights and basic freedoms are guaranteed to all, regardless of nationality, race, sex, language, religion, political or other belief, material status, birth, education, social status or any other personal circumstance. Article 56 of the Constitution stipulates that children enjoy human rights and basic freedoms in accordance with their age and maturity.

11. The age of majority, defined in article 117 of the Law on Matrimony and Family Relationships (1989), is 18. This is in accordance with the Convention.

12. Under the Law on Health Care and Health Insurance, a child has the right to consult a doctor without the consent of his/her parents after he/she has reached 15 years of age.

13. The right of children to education and training is determined in article 57 of the Constitution. Primary education is compulsory and is financed with public money. Under the Primary School Acts (1980, 1986), compulsory primary education lasts eight years, i.e. until the age of 15. As the Act also stipulates one year preparation for primary school, the length of compulsory primary education is actually nine years, starting at the age of six.

14. Children may become employed or work under a temporary service contract after they have reached the age of 15, in accordance with article 8 of the Law on Basic Rights in Employment. Employees under 18 years of age (youth) are entitled to special safety at work.

15. The legal age for marriage is 18 (the Law on Matrimony and Family Relationships, art. 18). Where good grounds exist, the Centre for Social Work may allow a person under age to marry.

16. The Law on Military Obligation (1991) defines that persons under 18 years of age are recorded into the army records. The army conscription is carried out when an individual reaches the age of 18 and, only when an individual so demands, in the calendar year when the individual reaches the age of 17. Military obligation does not apply to persons under 18 years of age. Under the Law on Military Obligations (1991), persons under 18 are only registered in military records, and the obligation to enlist starts at the age of 18. Recruiting in the calendar year in which a person has reached the age of 17 is only possible through individual petitions. Conscripts are enlisted for service in the armed forces in the year in which they reach the age of 19, or later (up to 27 years of age), and only exceptionally, through a petition, after they have reached the age of 18. Conscripts have the right to conscientious objection. The obligation to serve in the Reserve starts only after the completion of military service. As regards national defence, the country abides by the principles of international law (the Defence Law, 1994).

17. The age of criminal responsibility, determined by the Penal Code of the Republic of Slovenia (1994), is 14. This means that juvenile offenders under 14 years of age may not be subject to punitive sanctions, nor may criminal proceedings be instituted or conducted against them. For these offenders, the Law provides for non-penal treatment or aid by the Centre for Social Work. Juvenile offenders over 14 and under 16 years of age (younger juveniles) are only subject to educational measures. The lower age limit at which a criminal offender may be arrested is 16. The Penal Code stipulates that, exceptionally, a criminally responsible older juvenile may also be fined or sentenced to a juvenile prison term, additional punishments possibly including a ban on driving a motor vehicle or the expulsion (of a foreigner) from the country. Punishment may also include the educational measure of confinement to special organizations which form part of the educational system.

18. Under the Law on Petty Offences, selling alcoholic drinks to persons under 16 years of age is forbidden and subject to a fine. In this regard, it should be noted that this prohibition refers to sales of spirits: the sale of other alcoholic drinks to juveniles is not forbidden in so far as the quantity served is insufficient to render them intoxicated. As such legislation makes it difficult to control sales of alcoholic drinks to juveniles, and since it interferes with the right of parents to protect their child, we feel that this statutory provision should be so amended as to make the sale of any alcoholic drinks to juveniles under a specific age punishable.

III. GENERAL PRINCIPLES

19. The 1991 Constitution of the Republic of Slovenia contains a separate chapter (arts. 14-65) on human rights and basic freedoms, including the rights of the child. It is evident from the provisions of that chapter that the Constitution provides for the same rights of the child as those set out in the Convention on the Rights of the Child.

20. General conditions for the exercise of the rights of the child have been secured in the Republic of Slovenia by institutes such as the rule of law, democratic pluralism, parliamentary democracy and the Commissioner of Human Rights, whose duties include the protection of the rights of the child. Although certain shortcomings and problems do exist in the implementation of the Convention, major and systematic violations of the rights of the child do not occur in Slovenia.

21. This report, then, leaves out information on the progress achieved in the exercise of each individual right recognized by the Convention on the Rights of the Child.

22. Problems in exercising children's rights are dealt with only in connection with provisions causing specific problems.

A. Non-discrimination: article 2

23. The equality of the rights of children regardless of birth, stipulated in article 2 of the Convention, is dealt with in article 5 of the Law on Matrimony and Family Relationships (1989). Slovenian law confers equal legal status to children born in legal wedlock and children born out of legal wedlock. The rights and duties of children towards their parents and of relatives toward children are equal for children born in legal wedlock and those born out of legal wedlock. The same applies to an adopted child who, through the act of adoption, acquires the status of a child born to the adopter (arts. 142, 145 of the Law on Matrimony and Family Relationships). However, a child born in legal wedlock enjoys on the rights to both parents (and other relatives) from his/her birth on, since the parents are known at the time of birth (the mother because she has given birth to the child and is recorded as such in the register of births, the father because of the legal assumption that the mother's husband is the father of the child), whereas a child born out of legal wedlock enjoys these rights only after the identity of his/her parents has been ascertained. In the case of the mother, this normally poses no problems. Problems arise where the father refuses to recognize a child as his (arts. 86-90 of the Law on Matrimony and Family Relationships), in which case fatherhood is determined in a paternity suit (art. 92 of the Law on Matrimony and Family Relationships). This difference between a child born in legal wedlock and a child born out of legal wedlock does not affect the scope of the rights and duties existing between the child and his/her parents and other relatives.

24. Article 2 of the Convention on the Rights of the Child further refers to other circumstances which may not affect the legal status of the child, viz. race, colour, sex, language, faith, political or other beliefs, national, ethnic or social origin, material status, disability or any other circumstance regarding the child, his/her parents or his/her guardian.

25. In the second paragraph of article 2, the Convention determines the obligation to protect the child against all forms of discrimination or punishment on account of the position, activity and expressed opinions or beliefs of his/her parents, guardian or family. The substance of the first and second paragraphs of article 2 of the Convention is contained in article 54/1 of the Constitution of the Republic of Slovenia, under which parents may be divested of parental rights solely for reasons determined by law for the benefit of the child, as well as in article 14 of the Constitution, which provides for equal human rights regardless of nationality, race, sex, language, religion, political or other beliefs, material status, birth, education, social status or any other individual circumstance. All are equal before the law.

26. We would like to draw attention to certain problems which arise in practice in connection with article 5 of the Law on Matrimony and Family Relationships. Difficulties arise with children born out of legal wedlock or in extramarital union. After such a relationship terminates, the parents typically do not leave the custody of the child to be determined by a judicial or some other decision, and the child as a rule remains with the mother. The problem becomes particularly complex when a child has been taken to a foreign country, where the search must start within a year (Convention on the Civil Aspects of International Child Abduction, signed and ratified by Slovenia), which in view of the circumstances and the need to provide proper documentation for the return of the child from abroad, makes the search particularly difficult.

B. Best interest of the child: article 3

27. According to this principle, government or private social welfare institutions, courts and administrative or legislative bodies must, in all their activities concerning children, be guided by the best interests of the child.

28. This principle is affirmed in the Constitution of the Republic of Slovenia, which in article 54/1 stipulates that parents have the right and duty to support, raise and educate their children. Parents may only be divested of this right and duty for reasons stipulated by law for the benefit of the child.

29. The Law on Matrimony and Family Relationships (1989) in many provisions refers explicitly to the best interests of the child as the guiding principle in dealing with and treating the child. This principle applies to parents and institutions or government agencies alike. In the interests of children, the Law grants special social protection to the family (art. 2), and society grants protection to minors whenever their healthy development is endangered and when the benefit of children so requires (art. 6). The best interests of children are the primary concern of courts in deciding on the custody of the

child in divorce cases, and on possible removal of or limits to the right of the parent who has not been granted the custody of the child to maintain contacts with the child. Similarly, protection of the interests of the child gives grounds for the application of social protection measures which interfere with parental rights and property relations between parents and children.

C. The right to life, survival and development: article 6

30. This provision of the Convention is contained in article 56 of the Constitution, which stipulates that children are entitled to special protection and care.

31. Article 53 of the Constitution of the Republic of Slovenia specifies that it is the duty of the State to protect family, motherhood, fatherhood, children and youth, and to ceate the necessary conditions for that protection.

32. The special care due to the child is primarily the responsibility of parents. The Law on Matrimony and Family Relationship states explicitly that parental rights include the obligation to support children and care for their life, health and upbringing.

D. Respect for views of the child: article 12

33. This provision of the Convention is contained in article 213 of the Law on Matrimony and Family Relationship (1989), which stipulates that the child is entitled to be represented by the collision guardian in cases where the interests of parents and children clash. The collision guardian can represent the child in actions brought by the child against his/her parents. Apart from maintenance suits, paternity suits and, possibly, maternity suits, such legal actions could also be brought by the child for the purpose of protecting his/her property.

IV. CIVIL RIGHTS AND FREEDOMS

A. The right to a name, nationality and parental care: article 7

34. The right of the child to be inscribed in the register of births is provided for by the Law on Registers of Births, Deaths and Marriages (1987). Article 7 of the Law stipulates that the birth of a child must be reported within 15 days of birth, and paragraph 2 of article 21 obliges the registrar to record the birth of the child within 30 days from the day of notification. The same Law provides in article 9 that a foundling must also be inscribed in the register of births.

35. The Law on Personal Names (1974, 1981, 1986, 1991) defines how and by whom the name of a child is determined. In line with the Convention on the Rights of the Child, the Law provides that the name of a child is determined by mutual agreement of his/her parents, and where the parents cannot agree on the name, by the centre for social work.

36. Article 5 of the Law on Personal Name regulates the determination of the name of an adoptee. The adopters are allowed to change the name of the child before the child is 4 years old, and thereafter only when the child has turned 10, provided the child agrees.

37. Under article 4 of the Law on Citizenship of the Republic of Slovenia, a child receives Slovenian citizenship by descent, i.e. if one of his/her parents is a citizen of the Republic of Slovenia. Article 9 of this Law secures the acquisition of Slovenian citizenship where the father and mother are unknown, where their citizenship is unknown, or where they are stateless.

38. The right of the child to citizenship dealt with in article 7 of the Convention on the Rights of the Child does not go as far as to include naturalization processes. However, the Ministry of the Interior, in a few exceptional cases, issued decisions on naturalization of children notwithstanding the provisions of article 14 of the Law on Citizenship of the Republic of Slovenia, which determines the conditions for granting Slovenian citizenship to minors. The Ministry based its decision on the Convention on the Rights of the Child, and in so doing followed the principle of the best interests of the child as stipulated in article 3 of the Convention. In these cases, the awarding of Slovenian citizenship to minors was petitioned by the children's guardians.

B. Freedom of expression: article 13

39. The substance of article 13 of the Convention is contained in article 39 of the Constitution of the Republic of Slovenia, which deals with human rights and freedoms.

C. Access to appropriate information: article 17

40. The Law on Mass Media (1994), while not stipulating explicitly the rights of children in the information process, does not render the exercise of those rights impossible. A large number of publications for children are published in Slovenia, including those prepared and edited in full by children themselves and published by educational institutions. There are also many TV and radio broadcasts prepared for or edited by children.

41. Through a children's parliament, organized every year (six to date) by the Association of Friends of Youth of Slovenia, children deliberate topics which they themselves propose.

42. The principles defined in article 17 of the Convention are implemented to a satisfactory degree through youth press and school publications, the social and religious press of ethnic groups, and the Italian-language and Hungarian-language minority press.

43. The protection of children and youth in the media is secured by the Law on Mass Media (1994) and the Law on Radio/TV Slovenija. The Law on Mass Media stipulates in article 26 that advertisements aimed at children or featuring children must consider the special sensitivity of children and refrain from promoting violence, pornography or other contents which harm children's health and their mental and physical development.

44. The Law on Mass Media stipulates in article 50 that films and other programmes (except news) which might do harm to the physical or mental condition of children and young people may only be broadcast between 11 p.m. and 6 a.m.

45. Article 4 of the Law on Radio/TV Slovenija provides that the national television station must protect children and young people from contents which might affect their mental and physical development.

D. Freedom of thought, conscience and religion: article 14

46. Freedom of thought, conscience and religious belief is guaranteed in article 41 of the Constitution. The Constitution also entitles parents to secure religious and moral education for their children in accordance with their persuasions. Religious and moral education must be adapted to the child's age and level of growth, his/her freedom of conscience and his/her religious or other commitment or belief.

E. Freedom of association and peaceful assembly: article 15

47. The freedom of association and peaceful assembly is laid down in article 42 of the Constitution of the Republic of Slovenia. This right is exercised in practice by children associating within different cultural, recreational and other social activities.

F. Protection of privacy: article 16

48. The protection of children's privacy is provided by article 35 of the Constitution of the Republic of Slovenia. The right to privacy includes the right to the privacy of information. The right to privacy of information is the right of an individual to refuse to disclose information about him/herself to those whom he/she does not want to be acquainted with it. This right is secured in Slovenia by the Law on the Protection of Personal Data (1990).

G. Right not to be subjected to torture: article 37 (a)

49. The prohibition of torture and other inhuman or degrading treatment or punishment is determined by article 18 of the Constitution of the Republic of Slovenia.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance: article 5

50. The Law on Matrimony and Family Relationships (1989) states explicitly that parents are duty-bound within their parental rights to support their children and to take care of their life, health and education (art. 103).

51. Under the aforementioned Law, the raising of children is an element of parental rights.

52. The Law on Matrimony and Family Relationships determines in article 114 that in case of divorce, parental rights and the raising of the child as an element of those rights, are exercised by the parent to whom the custody of the child has been awarded. Decisions of critical importance for the child's future development are taken by mutual consent of both parents, including the parent with whom the child does not live if that parent fulfils his/her obligations to the child.

B. Parental responsibilities: article 18

53. The rights and duties of parents to their children (parental responsibilities), irrespective of the marital status of parents, are determined in article 54 of the Constitution of the Republic of Slovenia. Parents have the right and duty to support, secure the education of and raise their children. Parents may be divested of that right and duty solely for reasons provided by law for the welfare of children.

54. The aforementioned constitutional provision lays the foundation for parental rights, which under the Law on Matrimony and Family Relationships (1989) consist of the rights and duties of parents to take care of their children's life, personal development, rights and welfare (art. 4/2). The aim of parental rights is to provide conditions for the healthy growth and harmonious development of the personality of the child, and to prepare him/her for independent life and work (art. 102 of the Law on Matrimony and Family Relationships).

55. Responsibility for the child rests primarily with the parents. The Law on Matrimony and Family Relationships (art. 103) stipulates that parents are duty-bound to support their children and look after their life, health and education (in the broadest sense of the word, in terms of the shaping of a child's personality). Representation in acting on behalf of the child in relation to the outside world (art. 107) and the management of the child's property (art. 109) also fall within the duties of parents.

56. In the Slovenian Law on Matrimony and Family Relationships, the substance of paragraph 1, article 18 and article 5 of the Covention is not defined as a parental right, but rather as the duties of parents towards the child. In this sense, then, the Slovenian Law refers to "responsibility for the child" rather than to the parental right.

57. In line with paragraphs 2 and 3 of article 18 of the Convention, the Republic of Slovenia ensures institutes and services for child care and education (kindergartens and other pre-school activities) which are public institutes financed from public funds.

C. Separation from parents: article 9

58. Although parental rights are understood above all as the duties of parents, they also entitle parents to freedom from interference by others, including the State, in their parental rights. This holds as long as the parents exercise their parental right for the welfare of the child; otherwise the State is obliged and entitled to interfere in the parental rights and to ensure that they are exercised for the welfare of the child.

59. Thus, paragraph 1 of article 54 of the Constitution explicitly provides that parental rights may be taken away or restricted solely for reasons stipulated by law with a view to protecting the welfare of the child.

60. Under the Law on Matrimony and Family Relationships (1989), the State may and is obliged to interfere in the exercise of parental rights through measures whose implementation is the responsibility of centres for social work. Some measures are applied by courts.

61. The Law on Social Security grants centres for social work general authorization for measures involving the separation of the child from his/her family environment (art. 119 of the Law on Matrimony and Family Relationships), and defines the manner of and reasons and conditions for the application of measures of separation of the child from his/her parents as a serious restriction on parental rights (arts. 120 and 122 of the Law on Matrimony and Family Relationships).

62. Articles 120 and 121 of the Law on Matrimony and Family Relationships stipulate that a centre for social work may take a child away from his/her parents in the event of negligent upbringing and lack of proper care on the part of the parents, or where separation benefits the child because of other weighty reasons, such as personality or behavioural disorders which critically affect the child's normal development.

63. When the rights and benefits of the child are at issue, the centre for social work always schedules a hearing to obtain the opinion of the expert commission before taking any decision. The obligation to conduct a hearing in which the child participates is an additional procedural clause for the protection of the child's welfare.

64. Although the first and second paragraphs of article 9 of the Convention can be considered to comply with the provisions of the Law on Matrimony and Family Relationships (1989), it would be advisable to contemplate entrusting the determination of legal aspects of family affairs to courts more than has been the case to date, with the aim of enhancing the protection of children. Such matters would be determined by special family courts or judges specializing in family matters.

65. Similarly, paragraph 3 of article 9 of the Convention agrees with the provisions of the Law on Matrimony and Family Relationships (1989) in the part relating to the child's contacts with both of the divorced parents. Paragraph 3 of article 78 of the aforementioned Law stipulates that a parent who has not been awarded custody of the child retains the right to maintain personal contacts with the child, except when, in view of the welfare of the child, the court decides otherwise. If the parents do not live together and cannot agree on which of them the child will live with, the decision is taken by the centre for social work or the court adjudicating the divorce or annulment of marriage. In so doing, the centre or the court takes into consideration the wishes of the child whenever the child is capable of expressing them.

66. Furthermore the Law on Matrimony and Family Relationships provides for the right of the parent with whom the child does not live to have personal contacts with the child. This right is exercised when the child lives with the other parent, with a third person, or in an institution, as well as when the child has been taken away from the parent and is in the custody of an educational establishment. The centre for social work may place restrictions on a parent's contact with the child if it finds that it does not benefit the child. The court may place restrictions on contact when deciding in a divorce case on the custody of the child.

D. Family reunification: article 10

67. The right to personal contacts or to the reuniting of children with their parents is also granted to parents who live in different countries. Parents who live abroad have the same right to personal contacts with their children as provided by Law on Matrimony and Family Relationships (1989) for Slovenian citizens who are residents of the Republic of Slovenia.

68. Similarly, the right to live with one's family or to join one's family is enjoyed by foreign subjects in the Republic of Slovenia under the Law on Foreigners (1991). Article 13 of the Law on Foreigners defines a foreigners's desire to live with his/her children as another legitimate reason for granting extended or permanent residence in Slovenia. Competent agencies also consider an application for a residence permit by a child whose parents are Slovenian citizens as a legitimate basis for family reunion. Under article 17 of the Law on Foreigners, a permanent or temporary residence permit may be issued to a child under 18 who is a foreign subject and whose parent has a permit for a permanent or temporary residence in the Republic of Slovenia, or to a spouse who is a foreign subject and whose partner has a permit for a permanent or temporary residence in Slovenia.

69. Departures from the above are possible under the Law on State Border Control, which in article 22 grants the State border control agency the authority to forbid or deny entry into the country to a foreigner for reasons of public order. A similar provision is to be found in article 10 of the Law on Foreigners, which lists all the reasons for which a foreigner may be denied an entry visa or permission to enter the country.

E. Recovery of maintenance for the child: article 27, paragraph 4

70. Under the Law on Matrimony and Family Relationships (1989), both parents are liable to maintain their children in accordance with their abilities and material possibilities.

71. Parents are liable to maintain their child after majority if the child is in regular education, or is incapable of earning a living by reason of physical or mental disability, or has no means of subsistence.

72. The obligation to maintain children does not cease with the removal of the parental right (art. 124 of the Law on Matrimony and Family Relationships). In this respect, the Law can be said to comply with the Convention.

73. In connection with the duty of parents to support their childen article 47 of the Law on Foreigners determines, inter alia, that a refugee or a foreigner who has not settled his/her maintenance liabilities to a spouse or a child residing permanently in the Republic of Slovenia may not be issued a passport with which to leave Slovenia if so requested by the court or centre for social work.

74. The Republic of Slovenia is a signatory to the convention on the settlement of maintenance claims and to other bilateral agreements under which it can secure compensation for the maintenance of a child in Slovenia or abroad fron parents or persons financially responsible for the child.

F. Children deprived of a family environment: article 20

75. The constitutional basis for the protection of children temporarily or permanently deprived of family life is set out in paragraph 3 of article 56 of the Constitution of the Republic of Slovenia, which provides that children who are deprived of parental care, who have no parents or who are not supported by their family are entitled to special protection by the State.

76. The position of such children is regulated by the Law on Matrimony and Family Relationships, which provides for several forms of protection. The Law provides for and enables various alternative forms of raising and caring for children: fostering, guardianship and adoption (arts. 134-223), as well as placing a child in an institution as a measure applied by the centre for social work with the aim of ensuring healthy development of the child's personality (art. 121).

77. The act of adoption as a specific form of protection of minors establishes between the adopter and the adoptee the same relationship as between parents and children. Adopters may only be persons of full age who are at least 18 years older than the adoptee. Adoption by persons who are not 18 years older than the adoptee is allowed exceptionally, when it is for the benefit of the child. Adoption of a minor above 10 years of age is subject to the minor's consent. During the five years before Slovenian independence, an average of 145 children were adopted annually. Since independence, this average has fallen to only 20-30 annually.

78. Another form of social protection of children is fostering. The centre for social work places children who have no parents, or who cannot live with their parents, or whose development in the environment in which they live is in jeopardy, with a fosterer or foster family for care, maintenance and upbringing. Placing of children in foster care is possible at the request of parents themselves. If a child is placed in foster care by the centre for social work, the consent of his/her parents or of the parent with whom he/she lives is required, except where a child has been taken away from the parents. On average, 1,850 children a year are covered by this form of institutional social care.

79. Guardianship is a form of social protection for children who have lost parents or whose parents cannot, do not want to, or are not allowed to look after them. A guardian is appointed by the centre for social work and he is vested with all the rights and obligations of a child's parent. Children placed in guardianship average 855 a year.

80. The centre for social work may place a child in residential care. There are nine establishments (institutions) within the school system of the Republic of Slovenia for children with developmental disorders. Two of them have primary school classes of 6-12 pupils. Four establishments, located in various parts of the country, take children from 7 to 15 years of age. The remaining three establishments are intended for children aged 15 to 18, with behavioural and personality disorders. These institutions provide secondary-school education or training in secondary schools within or outside the establishments. In 1991, the centres for social work sent 147 children to educational establishments. The annual average of children sent to educational establishments by centres for social work is 450. In recent years, most of the establishments have been refurbished and have introduced new concepts of education and care for children with behavioural and personality disorders, including alternative institutional forms such as housing communities. A crisis centre has been set up at the centre for social work, to which children can turn and remain for treatment lasting up to three weeks.

G. Adoption: article 21

81. The Law on Matrimony and Family Relationships accords equal treatment to "illegitimate" children and adoptees and children born in legal wedlock. Through adoption, the adoptee acquires the position of the adopter's (adopters') own child, with all the rights and duties in relation to the adopter and his relatives.

82. The Law on Matrimony and Family Relationships deals only with full adoption, by which the adoptee is completely separated from his/her birth family and incorporated into the birth family of the adopter. In terms of the rights of the child, Slovenia's legislation does not vary from the rules laid down by the Convention (arts. 20 and 21 of the Convention). The rights and duties of the adoptee to his/her birth parents and their relatives, and the rights and duties of the parents and realtives to the child, terminate with adoption. In principle, adopters are Slovenian citizens. An exception to this is provided for by article 140 on the Law on Matrimony and Family Relationships, for cases where an adopter cannot be found among Slovenian citizens. Adoptions by foreign citizens are few in Slovenia, 4 to 5 a year on average, and chiefly involve adoption by migrant married couples or by Slovenians who are foreign citizens.

83. Apart from the above, the Law on Matrimony and Family Relationships contains no other provisions on international adoption procedures.

H. Abuse and neglect, including physical and psychological recovery and social reintegration: articles 19 and 39

84. The contents of articles 19 and 39 are included in articles 116 and 119 of the Law on Matrimony and Family Relationships. In article 116, the Law defines criminal negligence of parental duties toward the child and the abuse of parental right as reasons for the withdrawal of parental rights. The authority to interfere in parental rights is vested in the court, which in so doing must give prime consideration to the welfare of the child. Common to both these reasons for withdrawing parental rights is the fact that the parents do not meet the basic requirements of parental responsibility for a child's subsistence, health and upbringing, and thereby do not ensure basic conditions for its healthy physical, mental, intellectual and moral development.

85. Article 119 of the Law on Matrimony and Family Relationships invests centres for social work with general authority to apply any measures to protect a child's interests, providing that such measures are necessary. Another two requirements that centres for social work must observe in deciding which measures to apply are: the measures should be the most appropriate for achieving the desired effect, viz. securing the child's welfare, by affecting the parents in the least possible degree; measures to protect a child's personality must exclude taking the child away from his/her parents. Under the Law on Social Welfare (1992), the centre for social work is obliged to take the necessary steps when it learns that a child is in jeopardy.

86. Protection of children against neglect and cruel treatment is also guaranteed by the Penal Code of the Republic of Slovenia (1994), which in article 201 provides for neglect and cruel treatment of children to be punishable by up to two years' imprisonment.

87. In the Republic of Slovenia there are various programmes which help children and persons who look after them to recover from physical and mental abuse and neglect, viz. SOS telephones for children, women and victims of violence, counselling centres for children, adolescents and parents, as well as other forms of counselling within public institutions and non-governmental organizations. A centre for battered women and children is currently being established. Two associations for the prevention of child abuse were established in Slovenia last year. Together with a developed network of other institutions, these societies will offer information and educational support to experts and the general public.

88. It should be noted that the procedure for gathering evidence of physical or mental violence, injuries, neglect or negligent treatment, torture, exploitation and sexual assault against a child who is in the care of his/her parents or of the legal or other guardian is often made more difficult by a lack of coordination between the services handling such cases, as well as by the slow action of the courts.

I. Periodic review of placement: article 25

89. The Law on Matrimony and Family Relationships (1989) and the Law on Social Welfare (1992) oblige centres for social work to follow the implementation of measures of foster care, guardianship and placement under the custody of educational establishments.

VI. BASIC HEALTH AND WELFARE

A. Survival and development: article 6

90. This article is in conformity with the Constitution of the Republic of Slovenia, which governs the basic social rights of all, including the child and the family. Children are entitled to special protection and care.

B. Children with disability: article 23

91. Article 52 of the Constitution of the Republic of Slovenia stipulates that children with physical or mental disorders and other handicapped persons are entitled to education and training for a working life in society. The education and training are financed from public funds.

92. A child with developmental disorders is entitled to individual treatment in medical establishments. A child may join a pre-school establishment (kindergarten), an educational establishment (for children with developmental disorders), the child protection department at a social welfare institution, or an independent social welfare establishment. The right to services and programmes in such institutions is provided by the Law on Education and Care of Pre-School Children (1980), the Law on the Organization and Financing of Education and Training (1991), the Law on Education and Training of Children with Disorders in Physical and Mental Development (1976) and the Law on Social Security (1992). Children with minor handicaps, and sometimes those with moderate or serious handicaps, are classified in normal kindergarten departments or in special departments (522 children in 1990, and 496 in 1991) with appropriately qualified staff, special programmes and equipment. Other moderately or seriously handicapped children attend different education and training programmes within public institutes. Important new services which have been recently developing include mobile services for the care of handicapped children and their preparation for admission to educational establishments within institutions for education and training, and home care supplied by social work centres. Education and training institutions are also developing other forms of assistance to families, such as departments for one-day stays at the institutions.

93. Families with handicapped children benefit from certain facilities (tariff and tax concessions, lower family allowance tax). The Law on Employment (1990, 1991) grants the mother or the father of a handicapped child the possibility of working part-time until the child turns 3. Article 85 of the Law on Basic Rights in Employment (1989, 1990) provides for the mother, or the father, who nurses a moderately or seriously handicapped child to work part-time as long as the physical or mental condition exists, or until the child turns 7.

94. Under the Law on Primary School (1980, 1986), children with developmental disorders have the right and obligation to receive primary and preparatory education, and the Law on Vocational Education (1980, 1986, 1989), in accordance with the principle of equal access to education, grants them the right to secondary and higher education.

95. Foreign minors with developmental disorders are entitled to temporary or permanent residence on the basis of paragraph 2, article 13, of the Law on Foreigners on presentation of medical documentation and evidence of treatment in medical institutions.

C. Health and health services: article 24

96. The Constitution of the Republic of Slovenia stipulates that all persons are entitled to health care under conditions provided for by a law which determines the right to health care from public funds (art. 51). The Law on Health Care and Health Insurance (1992) and the Law on Amendments and Supplements to the Law on Health Care and Health Insurance (1993) are entirely in accordance with article 24 of the Convention.

97. Proceeding from the directives of the World Health Organization, the Law has set new tasks in the promotion and protection of health in the Republic of Slovenia, which must be implemented through legislation, fiscal and economic policies, health protection strategy and planning, securing the required funds and the adoption of concrete measures towards making people aware of the importance of health care.

98. Article 15 of the Law on Health Care and Health Insurance (1992) determines that all citizens of the Republic of Slovenia and their family members are entitled to health insurance. The Law provides for voluntary and compulsory health insurance at the Health Insurance Office of the Republic of Slovenia which secures payment of medical services for insured persons. Complete payment of medical services is guaranteed to children, pupils and students in regular education, and to women in connection with pregnancy, childbirth, counselling and contraception. The Law determines that a child is covered by health insurance as a family member up to the age of 15, or up to the age of 18 if he/she is not the insured party him/herself. Children who are in regular education are covered by health insurance beyond 18, until the end of their education.

99. A child who becomes completely and permanently unfit for work before 18 or before the end of regular education is insured as a family member for as long as such inability exists if an insuree maintains him/her or if he/she is not himself the insuree specified in point 16, paragraph 1, of article 15 of the Law (which means that he/she does not receive the allowance provided for by the Law on Social Protection of Mentally and Physically Handicapped Adults).

100. The 1992 Law on Medical Activity determines that preventive health care of women and children is an obligatory element of medical activity that has to be dealt with by each community health centre (arts. 7 and 9). Abortions are performed in hospitals or in specially authorized health institutions (art. 16). All 60 community health centres in Slovenia have guidance clinics

for pregnant women, and 98.4 per cent of all pregnant women avail themselves of their counselling services. On average, pregnant women come for check-ups at guidance clinics seven times during pregnancy, and 72 per cent of women visit the clinic during the first three months of pregnancy.

101. The new compulsory preventive health-care programme for women (within the compulsory health insurance) includes counselling on family planning and the use of contraceptives, a school for parents, 10 check-ups of healthy pregnant women, 2 ultrasound examinations, early detection of R-isosensitive pregnant women, carriers of the hepatitis B antigens and infection with toxoplasmosis, post-natal examination, 2 home visits by the community health nurse to the women, and passive early detection of cervical cancer for women above 20 years of age. Virtually all pregnant women (99.6 per cent) give birth in hospitals. Follow-up health care is enabled by a modern information system. In 1990 infant mortality dropped to under 10 newborns weighing 500 g per 1,000, and in 1993 it amounted to only 8.1 per 1,000.

102. Infants have guaranteed medical services required to strengthen their health, and also have guaranteed visits by community health nurses (five home visits on average). Children up to the age of 3 and pre-school children are covered by compulsory general check-ups. Basic health care for children is secured by a network of medical organizations, while specialist health care is covered by hospitals. All community health centres have children's and schoolchildren's outpatient departments, which together account for about 20 per cent of preventive and 80 per cent of curative medical activity. Only about 8 per cent of children between 7 and 18 are not covered by regular programmes.

103. The new compulsory preventive health-care programme for children and schoolchildren (as part of compulsory health insurance) provides for vaccination according to the vaccination programme, five general check-ups up to 1 year of age and one general check-up for 3-year-olds, six general check-ups of schoolchildren, collective medical processing of primary-one pupils, medical processing of young people for vocational guidance purposes and of young people with behavioural and learning problems, and special purpose check-ups of students, athletes, conscripts and children with special needs. Health care for children aged 0 to 7 generally (about 80 per cent) rests mostly with paediatricians, of whom there are 125 at the primary health care level (1 paediatrician per 1,000 children under 7 years of age) and 140 at the secondary and tertiary levels (plus 11 neonatal specialists in maternity hospitals). The health of schoolchildren is dealt with by an increasing number of doctors (86 doctors per 1,000 schoolchildren).

D. Social security, child-care services and standard of living: articles 26, 18, paragraph 3, and 27

104. The rights of children in the field of social security and child care are regulated within different fields. These rights include: the right to health care and allowance for the care of immediate family members; the right to maternity leave and leave for child-rearing purposes; the right to family allowance and tax deductions; the right to care and education in kindergartens and to other pre-school activities; the right to social security contributions and services; the right to family pension; the right to unemployment

allowance; the right to company scholarships and republic scholarships for education. These rights are regulated by: the Constitution of the Republic of Slovenia (1991); the Law on Health Care and Health Insurance (1992, 1993); the Law on Basic Rights in Employment (1989, 1990); the Law on Labour Relations (1990, 1991); Family Allowance Act (1993, 1994); the Law on Social Security (1992); the Law on Pension and Invalidity Insurance (1992, 1993); the Law on Employment and Unemployment Insurance (1991, 1992, 1993, 1994); the Law on the Organization and Financing of Education and Training (1991); the Law on Pre-School Child Care (1980).

105. A child's rights to social security and child care are ensured directly or through the family or family members.

1. The right to sickness benefits

106. The right of children to health care was dealt with in the "article 24" section of this report. In this regard, note should be taken of the right to compensation for the nursing of sick family members, granted under the Law on Health Care and Health Insurance (1992, 1993), which entitles insured parents or guardians to absence from work and to an allowance for the nursing of a sick child.

107. Persons covered by medical insurance are entitled to paid leave to care for a family member of up to 7 working days per illness for a sick family member with whom the insuree lives in a common household, and of up to 15 working days to care for a child under 7 years of age or for a moderately or seriously mentally handicapped child. The paid leave may be extended when so indicated by the health condition of the patient(s) up to a maximum of 30 working days for a child under 7 or for an older, moderately or seriously mentally or physically handicapped child, up to a maximum of 14 working days for caring for other family members, and up to a maximum of 6 months to care for a child whose health has suddenly seriously deteriorated.

2. The right to maternity leave, family allowance and tax deduction

108. The right to maternity leave is defined in articles 80 and 81 of the Labour Relations Act as the right of a female employee to be absent from work because of childbirth and infant care. A female employee is entitled to maternity leave before and after childbirth, to a total of 365 days. Maternity leave includes 105 days of absence from work, of which at least 28 days before childbirth or 45 days before childbirth on the basis of the appropriate medical certificate. Upon expiry of maternity leave, a female employee has a 260-day infant care leave, or may choose to work part-time until the child reaches 17 months of age. The right to infant care leave may also be exercised by the child's father. If a female employee gives birth to twins or is caring for a physically or severely mentally handicapped child, infant care leave is extended to 15 or 21 months. If she gives birth to several live children, she is entitled to an additional 3 months' leave for each subsequent child, or she may choose to work part-time for a further 5 months.

109. During maternity leave and infant care leave, a female employee receives her salary in the amount of 100 per cent of her average monthly salary over the previous 12 months. The right to maternity leave and infant care leave is also guaranteed to all self-employed women, women farmers and women owners of private businesses who are insured under health insurance regulations. An unemployed woman who gives birth to a child is entitled to parental allowance (for 365 days) in the amount of 52 per cent of the minimum wage. In the second part of maternity leave, this right can be transferred to the father.

110. The right to cash compensation and parental allowance is regulated by the Law on Family Allowance. This Law also regulates other forms of financial aid to families, which are:

(a) Birth grant aid in kind for newborn children whose mothers are permanent residents of the Republic of Slovenia. It consists of the most necessary articles for a newborn child during its first months of life, and is available in three variants; instead of the package, mothers may take the equivalent in cash;

(b) Children's allowance. In the past, children's allowance was limited to financial assistance to children from low-income families. In 1991, only 25 per cent of all children aged between 0 and 15 and children under 26 years in regular education received children's allowance. The average allowance amounted to 12 per cent of the minimum monthly cost of living per child. The Law on Family Allowance provides for the gradual introduction by 1996 of a universal children's allowance which will vary depending on age and which will be higher for physically and mentally handicapped children. It will amount to between 13 and 17 per cent of the minimum wage in Slovenia.

111. The right to tax deductions for children was introduced by the Law on Income Tax in 1991. Tax deductions for children were increased in 1994 and now amount to 10 per cent of a specified portion of the average annual salary of employees in Slovenia for the first child and a further 5 per cent for each subsequent child, or 50 per cent for a child with developmental disorders.

3. Right to pre-school education in kindergartens and to other pre-school activities

112. The network of day-care institutions is well developed in Slovenia. However, a slight downward trend in the number of kindergartens (from 791 in 1988/89 to 774 in 1992/93) and of children attending them can be noticed, due primarily to the declining birth rate and the rise in unemployment. Under the Law on Pre-School Child Care and the Law on the Organization and Financing of Education, all children are entitled to pre-school education.

113. As of the end of 1993, the number of children aged from 0 to 6 years was 156,714, 7.9 per cent of the total population. The aggregate capacity of kindergartens is sufficient for 52 per cent of pre-school children, or for 33 per cent of the generation between 1 and 3 years of age and for 65 per cent of the pre-school generation above 3. All children between 5½ and 7 years of age are covered by one-year preparation for school, some of them within day-care programmes and some within shorter programmes. A further 11 per cent

of pre-school children not covered by day-care programmes attend different forms of additional educational programmes. Of children attending kindergartens, 88 per cent have both parents employed, and 76 per cent of them spend more than 8 hours a day in kindergartens.

114. Parental contributions to kindergartens depend on the incomes in the family, in recent years amounting to 22-25 per cent of the economic price. The difference between parental contributions and the full cost of kindergarten services is covered by the municipality. Parents pay no contribution to the preparation for school in the year preceding enrolment in school.

115. The Law on Pre-School Child Care provides for the possibility of non-institutional child care in families involved in that activity. However, the number of families involved in child care in Slovenia is small (107 in 1991), as is the number of children attending (640 in 1991). Alternative forms of pre-school child care have not developed in the Republic of Slovenia.

4. The right of children to social security related to services and allowances provided by the Law on Social Security

116. Individuals, families and other groups of citizens are entitled to various services, including social prevention, social welfare, home help, community help for individuals, families or groups in distress, and cash payments. A family living below the lowest agreed margin of social security, which in the case of adults amounts to 52 per cent of the minimum wage in the Republic of Slovenia and which for children depends on age and ranges between 29 per cent and 42 per cent of the minimum wage, is entitled to cash payments. On average, 17,000-18,000 individual claimants or families monthly receive this allowance for about 50,000 persons.

5. The right to a family pension

117. This right is one of the basic rights under the pension scheme and disability insurance, granted on the basis of compulsory insurance to family members, persons in employment, farmers, small business-people, the self-employed and public servants. Children under 15 (legitimate, natural, adopted, children or stepchildren whom the insuree had maintained) have the right to a family pension without any additional conditions and after that, until they turn 26, if they remain in regular education. In cases of being disabled to work, children have the right to a family pension while this disability lasts, under certain conditions (e.g. disabled children). The function of the family pension is to compensate for maintenance by a deceased parent and that a child who loses both parents receives in addition to family pension for one parent, part of the family pension for the other parent. The Law specifies the lowest percentage for family pension assessment. Family pension for a child without parents may not be less than 70 per cent of the base for family pension assessment, which increases depending on the number of uncared-for children.

6. Right to unemployment benefit

118. Under the Law on Employment and Unemployment Insurance, the right to unemployment benefit and cash benefits during unemployment is granted to insurees who, before losing their job, were employed for at least 9 uninterrupted months or for 12 months with gaps over a period of 18 months, provided that they register at the Labour Office no later than 30 days after losing their job. Within 30 days from the expiry of the right to unemployment benefit, an insuree may exercise the right to cash benefits if his/her income does not exceed 80 per cent of the minimum wage. Cash benefits are paid out every six months. During the first three months the cash benefit amounts to 70 per cent and during subsequent months to 60 per cent of the insuree's basic salary, but it may not be lower than 80 per cent of the minimum wage, and is paid out for no more than 24 months. This right lasts for three years.

119. In January 1995, there were 122,905 registered unemployed workers; 31,508 were receiving unemployment benefit and 10,616 were receiving cash payments.

7. Right to company scholarships and republic scholarships

120. The Law on Insurance and Unemployment Insurance (1991, 1992, 1993, 1994) provides for the possibility of obtaining company scholarships and republic scholarships. Those eligible are pupils from 15 to 18 years of age and students from 18 to 26 years of age. Company scholarships are awarded by organizations and employers in accordance with their personnel needs. The size of a scholarship is determined by the employer, except for the minimum scholarship, which in the case of pupils may not be lower than 20 per cent and in the case of students no lower than 30 per cent of the minimum wage net of contributions and taxes. Republic scholarships are generally awarded on a social welfare basis to pupils and students whose income per family member does not exceed 100 per cent of the minimum wage in the Republic of Slovenia and who have their permanent residence in the same region in which they attend school, and 130 per cent of the minimum wage for pupils and students who go to a school outside the region of their permanent residence. Other criteria taken into consideration in awarding republic scholarships include the pupil's or student's performance in school, his/her abilities and his/her interest in the course and chosen occupation. This scholarship may also be awarded to gifted pupils and students regardless of their material position.

121. In January 1995, a total of 46,530 children and students received republic scholarships, of whom 37,154 were pupils and 9,376 students. The average republic scholarship for pupils is Slt 7,500, and for students Slt 15,000. A total of 6,982 pupils and students (3,272 and 3,710, respectively) received scholarships for gifted scholars.

VII. EDUCATION, LEISURE, CULTURAL ACTIVITIES

122. According to article 57 of the Constitution of the Republic of Slovenia, primary education is compulsory and is financed with public money. The State creates the conditions for citizens to receive an adequate education. Primary and secondary education are governed by the Law on the Organization and Financing of Education (1991), the Law on Primary School (1980, 1986) and the Law on Vocational Education (1980, 1986, 1989).

123. Under the Law on the Organization and Financing of Education, educational activity for children and young people in the Republic of Slovenia is carried out at the following levels: pre-school education, including preparation for primary school; compulsory primary education; secondary education; college, university and postgraduate education; education and training of children and adolescents with developmental disorders; basic music education. These forms of educational activity in the 1991/92 school year were carried out in 820 primary schools with 9,005 classes, 146 secondary schools with 3,326 classes, 2 universities with 16 faculties, 9 colleges and higher education institutions, 3 academies, 79 organizations with 477 classes for education and training of children and adolescents with developmental disorders, 63 music schools and 1 ballet school.

124. At the end of 1993, the number of children aged from 7 to 18 years was 343,271, 17 per cent of the total population.

125. The Law on Primary School (1980, 1986) provides for free compulsory eight-year education and one-year compulsory preparation for primary school. Compulsory education thus actually amounts to nine years. The Law also stipulates a range of protective norms for children, e.g. organized educational activity may not exceed 30 lessons a week, a class may not be larger than 32 children, if the safety of children during specific classes so requires, a class may not include more than 20 children. According to the Law, marking is public and children take part in it.

126. At the end of primary school, children receive information about programmes of instruction in all secondary general and vocational schools. Employment offices organize career counselling for all seventh- and eighth-graders. Career counselling is also available in secondary schools, and universities organize information days.

127. Primary school enables pupils to organize on a voluntary basis societies of culture, physical culture, health education and mutual aid.

128. The Law on the Exercising of Special Rights of Members of the Italian and Hungarian Minorities in the Field of Education (1982) grants members of these minorities the right to primary education and two-year pre-school preparation in their native languages.

129. Under the Law on Vocational Education, secondary education in the Republic of Slovenia is open to all free of charge, within the scope of the compulsory programme of instruction. The Law protects secondary school students against an excessive study burden by limiting organized educational activity to 40 lessons a week and 42 weeks a year. Article 100 of the Law on Vocational Education provides for acceleration, i.e. binds schools to individualize programmes and enable particular students to master individual subjects or the entire programme at a faster pace. Such an approach is in line with modern trends of special care for talented students and with paragraph 1 (a) of article 29 of the Convention on the Rights of the Child.

130. The rights of the Italian and Hungarian minorities in the field of secondary education are governed by a special law.

131. Statutory regulation of education can on the whole be assessed favourably, since the level of legal protection of children's rights is rather high. It can be noted, however, that children's right to leisure is not clearly and explicitly defined in the legislation covering this field.

132. Children spend their free time in various ways, among others in voluntary sports, cultural and artistic activities within school, and different societies in which they can follow their interests. According to the results of a 1982 survey conducted by the Institute of Social Sciences, the most popular free-time activities pursued by primary schoolchildren are listening to the radio, watching television, reading, going to the cinema and various sports, recreational and social activities.

133. The Ministry of Education and Sport prepared a package of a new legislation on education in 1994, viz. the Law on the Organization and Financing of Education, the Law on Kindergartens, the Law on Primary School, the Law on Grammar Schools and Other General-Education Secondary Schools, the Law on Vocational Education and the Law on Adult Education currently before parliament.

VIII. SPECIAL MEASURES OF PROTECTION

A. Refugee children: article 22

134. The Republic of Slovenia has still not encountered so-called "Convention" refugees. Because of the war in the neighbouring States more than 10,000 foreigners have fled here. At the beginning of March 1995, 22,667 persons with temporary protection were registered in the Republic of Slovenia. Of the 7,880 children, 109 are up to 1 year of age, 217 from 1 to 2 years of age, 2,500 from 3 to 7, 4,610 from 8 to 16 and 444 from 16 to 18.

135. The children in temporary protection enjoy special care and protection. They have the right to free health care, not only preventive but also curative and corrective if, in this way, the cause of other or further health problems is avoided. Primary school education is organized for the majority of children in temporary refuge in their mother tongue. They are also allowed schooling at secondary schools and faculties. For children who are not visiting secondary schools, courses of vocational education have been organized. If necessary, they are also justified to free room and board and other protective measures. The normalization of life in a new environment and preparation for life in their homeland, as well as in the Republic of Slovenia, are the main goals of our measures.

136. Last year the Republic of Slovenia was actively included in the worldwide campaign of the United Nations High Commissioner for Refugees to search for and reunite children that were separated from their parents by the war in the Republic of Bosnia and Herzegovina. In this campaign 473 children were recorded in the Republic of Slovenia, approximately 100 of whom were without both their parents. The coordinator of the organizations which were included in the programme of aiding persons in temporary refuge is the Office of the Republic of Slovenia for Immigration and Refugees.

B. Children in armed conflict: article 38

137. During the aggression by the Yugoslav army in late June 1991, the Republic of Slovenia did not impose any limitations on the rights of the child as recognized by the Constitution and this Convention.

C. Children in conflict with the law: article 40

138. The rights of children in criminal law are regulated in Slovenian legislation by the Penal Code of the Republic of Slovenia (1994), the Law on Criminal Procedure (1994) and the Law on the Execution of Penal Sanctions (1978). In respect of juveniles, the basic principles of Slovenian criminal law generally agree with the principles and recommendations of the Convention (the principles of "last resort", equal legal position, proportionality) and with the Beijing Rules.

139. Different age categories of juveniles provided for by criminal legislation (age 14-16 younger juvenile, above 16 older juvenile, above 18 younger adult) meet and even exceed the requirements of the Convention and the Beijing Rules. Article 71 of the Penal Code rules out the possibility of pronouncement of penal sanctions on children, although the age limit for criminal responsibility remains absolutely determined (14 years).

140. The system of sanctions against juvenile offenders (range of measures, release on parole from the institution, possibility of alternative institutional forms) provided by the Penal Code of the Republic of Slovenia is up to standard. The Code observes the principle of diversity of measures, and in article 74 provides for the following educational measures: reprimand, instructions and prohibitions, supervision by a social welfare agency, commitment to educational establishments, commitment to reformatories, commitment to training institutions. Paragraph 3 of article 79 of the Penal Code provides for the possibility of commitment to a housing community or a day-training establishment.

141. The Penal Code of the Republic of Slovenia provides for the possibility of release on parole during the educational measure, and in articles 83 and 84 for the possibility of delaying the measures, reversing a decision or reviewing a decision on an educational measure.

142. Consistent with the Convention's provisions relating to the protection of human rights, which explicitly forbid the use of information from juveniles' criminal records, the Penal Code in article 86 lays down that information from records on educational measures may only be made available to courts, public prosecutors and internal affairs agencies for the needs of criminal proceedings against juveniles, and to social welfare agencies and institutions which implement educational measures.

143. It should be noted, however, that the earliest stage of preliminary investigation in criminal matters in which internal affairs agencies have the initiative and play the central role is not adequately regulated by law. Within the scope of their powers, internal affairs agencies do not, nor are they bound to by law, discriminate between adults and children (e.g. in the course of identification, instruction, summoning, production, escorting,

personal search, etc.). Another problem is the organization, facilities and specialization of internal affairs agencies, as required by the Beijing Rules recommendations concerning the need for police specialization.

D. Treatment of children deprived of their liberty: article 37

144. The death penalty has not been pronounced in the Republic of Slovenia for more than 30 years. With the 1990 constitutional changes, the death penalty was formally abolished in Slovenia. The 1991 Constitution stipulates that "human life is inviolable" and that capital punishment does not exist in Slovenia (art. 17). The illegal killing of a person is defined in the Penal Code as a criminal offence.

145. On 15 April 1993 the Republic of Slovenia ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

146. Arrest and detention are dealt with in detail in the Law on Criminal Procedure. Detention may only be ordered by a court. It is the duty of all agencies involved in criminal proceedings, as well as of those providing them with legal aid, to act with special haste if the accused is in detention. When kept in detention, juvenile offenders are separated from adult offenders.

147. Respect for the arrested person's dignity and personality is guaranteed under the provisions of the Penal Code.

E. Children in situations of exploitation, abuse or torture; psychosocial assistance: article 39

148. Children who are victims of any form of neglect, exploitation, abuse or torture, or of other forms of cruel, inhuman or degrading treatment or punishment, or of armed conflicts, are entitled in the Republic of Slovenia to assistance (counselling, therapy, reintegration into society) extended through various programmes in medical, social welfare or educational institutions (institutions for mental health, educational counselling offices) and through non-standardized forms of counselling. In this regard, it would be necessary to consider the procedural status of such victims and, in particular, the forms and kinds of assistance available.

149. Children in temporary refuge are entitled to a range of services of psychosocial assistance extended by non-governmental organizations and individuals, including a counselling centre for children, adolescents and parents in Ljubljana; a centre for psychosocial assistance to refugees, the International Federation of Red Cross and Red Crescent Societies, the High School for Social Work, the Union of Friends of Youth, the Society for Developing Preventive and Voluntary Work, the Society for Voluntary Work (MOST), and organizations from Italy, the United Kingdom, Belgium and others, as part of a comprehensive programme of psychosocial assistance to refugee children.

150. The programme of psychosocial assistance, launched when the first Croatian displaced people came to Slovenia, for the most part covers services and activities organized in refugee centres and the environment (host

families) to normalize the life of refugees in their new environment and to alleviate the emotional trauma of refugee children. On the basis of the programme, various activities are run for children with temporary refuge in the collection centres and in the surroundings where they live (host families), such as kindergartens; school; various chores and free-time activities for children, adolescents and adults; counselling and therapeutic work with children in emotional distress; instruction of technical personnel, teachers and volunteers in emotional trauma in children and means of coping with them. We estimate that about 70 per cent of children with temporary refuge are covered by the programme of counselling and treatment of emotional traumas caused by war and by the programme of free-time activities.

F. Child labour: article 32

151. The Law on Basic Rights in Employment (1989, 1990) determines in article 8 that a person may become employed if he/she has reached the age of 15 and if his/her general health permits it. The same age requirement applies to work under temporary service contracts (the Law on Labour Relations, 1990, 1991). For strenuous work, the age of 16 or 18 may be required or prescribed, or such work may be forbidden to young people altogether.

152. Workers under 18 years of age enjoy special protection at work. They may not be required to perform hard manual labour or to work at night, and they are entitled to longer annual leave. Overtime work is also forbidden. Overtime is determined on the basis of a 42-hour working week, or of a shorter working week in organizations where the full-time working week is less than 42 hours. Furthermore, workers under 18 doing seasonal work are entitled to 12 hours of rest a day. These statutory provisions agree with article 32 of the Convention.

G. Drug abuse: article 33

153. Slovenian legislation in various fields (health care, social welfare, public safety, the judiciary) does not in principle stray from the provisions of article 33 of the Convention, since it provides for a range of preventive programmes to protect against the abuse of drugs by children, especially programmes in the field of public safety (interruption of drug transit routes across the country, exposure of the network of middlemen).

154. The Penal Code of the Republic of Slovenia in articles 193 and 196 interdicts and penalizes illegal narcotics production and trafficking and the enabling of drug taking, and in article 197 makes the enabling of drug taking punishable by 1 to 10 years' imprisonment if committed against a minor or against several persons.

155. Several preventive programmes and programmes of treatment and social rehabilitation of addicts have been introduced in the Republic of Slovenia. Children experimenting with or addicted to drugs may turn for help to centres for social work which conduct special programmes, some of them information and counselling programmes, others preparation for inclusion in therapeutic groups. There is also a series of preventive programmes for enhancing a child's self-confidence and personality growth. Treatment and social rehabilitation are carried out by: medical institutions - methadone

programme; psychiatric institutions - detoxification of addicts; Slovenian Caritas - therapeutic groups; self-help groups - needle exchanges, mutual aid by addicts.

H. Sexual exploitation and abuse: article 34

156. The aim of article 34 is covered by article 183 of the Penal Code of the Republic of Slovenia, which penalizes sexual abuse of children under 14 years of age.

157. Seduction of minors is punishable by imprisonment for from three months to five years, and enabling sexual intercourse or other sexual acts involving minors is punishable by up to three years' imprisonment (art. 185).

158. On average, the police in Slovenia annually detect 85 cases of sexual assault against children. According to data from the Ministry of the Interior, more than 40 per cent of registered sexual assaults against children over the past 10 years were discovered accidentally, during routine police rounds. A good third of cases were reported by persons other than the victims, with less than 20 per cent by the victims themselves. Among the victims there were more girls (84.9 per cent) than boys. Most of the victims (28.8 per cent) were aged 13, followed by those aged 11 and 12. Three-year-olds accounted for a good tenth of the victims. Among the assailants, adult males prevailed (98.3 per cent): a quarter were aged under 18, close to a half between 19 and 35, and others (31 per cent) between 36 and 74. A very high percentage (94.7 per cent) of sexual abuse suspects had never had any contact with the police before. At the time of the offence, the majority (61 per cent) of suspects were single, fully employed (only 20 per cent were unemployed). More than half had more than primary education, and only a fifth were under the influence of alcohol.

I. Sale, trafficking and abduction: article 35

159. The substance of article 35 of the Convention is contained in article 144 of the Penal Code of the Republic of Slovenia.

J. Children belonging to a minority group: article 30

160. The Constitution stipulates in general provisions (art. 6) that the State protects and guarantees the rights of the Italian and Hungarian minorities, the two autochthonous minorities in the Republic of Slovenia. Slovenia's legislation on exercising the special rights of national minorities in education and in procedures before court and other State agencies has been assessed by foreign observers as exemplary.

161. The right to assert one's own culture and use one's mother tongue has been granted to all (art. 61 of the Constitution). This right is not denied to anyone in the Republic of Slovenia, nor is it limited by any laws or administrative measures.